

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6350

BILL NUMBER: HB 1110

NOTE PREPARED: Jan 30, 2006

BILL AMENDED: Jan 26, 2006

SUBJECT: Recycling of Mercury Components in Motor Vehicles.

FIRST AUTHOR: Rep. Brown T

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill requires a manufacturer of motor vehicles offered for sale in Indiana to develop and implement a plan to remove, collect, recover, and recycle or dispose of certain mercury switches from motor vehicles. It requires the plan to include identification of vehicle recyclers and scrap recyclers in Indiana, an education program, the provision of containers for collecting and storing mercury switches, and certain mercury switch recovery rate goals. It requires persons that sell, give, or otherwise convey ownership of certain motor vehicles to scrap recycling facilities for recycling to remove all mercury switches from the vehicles before delivering the vehicles to the facility.

Effective Date: July 1, 2006.

Explanation of State Expenditures: (Revised) This bill requires the Indiana Department of Environmental Management (IDEM) to review plans submitted by manufacturers of motor vehicles engaged on July 1, 2006, in the business of offering motor vehicles for sale in Indiana. The manufacturers must submit plans for, among other provisions, the removal, collection, recovery, and recycling or disposal of mercury switches from end-of-life vehicles. The plan must be submitted before January 1, 2007. The IDEM commissioner must not more than 30 days after receiving a plan, issue a public notice and solicit public comment on the plan. Not more than 90 days after receiving the plan, the commissioner must determine whether the plan complies with the provisions of the bill. If necessary, the commissioner must review revised plans. No more than 240 days after receiving a plan, the commissioner on behalf of the manufacturer must complete any part of the plan that has not yet been approved. After the plan has been approved, the commissioner must review the plan three years after the original date of approval and every three years thereafter. IDEM must investigate violations.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Rules. The Solid Waste Management Board may adopt rules to implement the provisions of the bill. IDEM, which provides staff to the Board, should be able to adopt rules given its existing level of resources.

Penalty Provisions. Violations are subject to civil penalties. A person who obstructs, delays, resists, prevents, or interferes with IDEM personnel or designated agent in the performance of an inspection or investigation commits a Class C infraction. Each day of violation of this section constitutes a separate infraction.

A person who intentionally, knowingly, or recklessly violates environmental management laws, rules, standards adopted by one of the boards, or a determination issued by the commissioner commits a Class D felony. A person who is convicted of a Class D felony may, in addition to the term of imprisonment be punished by a fine of not less than \$5,000 and not more than \$50,000 per day of violation. If the conviction is for a violation committed after a first conviction, a fine of not more than \$100,000 per day of violation may be imposed. Other penalties could apply. Vehicles could be confiscated.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,977 in FY 2005. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$62,292. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: (Revised) If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. The maximum judgment for a Class C infraction is \$500, which is deposited in the state General Fund.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures: (Revised) If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: (Revised) If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general

fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: IDEM; Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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